

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.25373 of 2017
and
W.M.P.No.26808 of 2017

Mohamed Sathak A.J. College of Pharmacy
Represented by its Chairman
Medavakkam Road
Sholinganallur, Chennai. ... Petitioner

-Vs-

1. The Director,
Directorate of Medical Education,
162, Poonamallee High Road,
Kilpauk, Chennai - 10.
2. The Registrar,
Tamil Nadu Dr.M.G.R. University,
N0.69, Anna Salai, Guindy, Chennai - 31.
3. The Registrar cum Secretary,
Pharmacy Council of India,
Combined Council Building,
Tample Lane, Kotla Road,
Aiwan-E-Ghalib Marg, New Delhi - 2. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to include the name of the petitioner pharmacy college in the Central Counseling to be held from 21st September 2017 for the B.Pharm and M.Pharm courses.

For Petitioner : Mr.A.Sirajudeen, Senior Counsel
for Mr.A.Sheik Pareeth

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader for R1
Mr.D.Ravichander,
Standing Counsel for R2
Mr.M.T.Arunan, for R3

O R D E R

The petitioner has come up with the present writ petition seeking for issuance of a writ of mandamus directing the respondents 1 and 2 to include the name of the petitioner pharmacy college in the Central Counseling to be held from 21st September 2017 for the B.Pharm and M.Pharm courses.

2.The petitioner/institution is involved in conducting pharmacy courses. The said institution has been established in the year 1998 and the same has been fully approved by AICTE from the year 1998 onwards. However, the petitioner/institution has to get approval from the third respondent for conducting pharmacy courses every year. While so, even though the petitioner/institution has been running successfully without any issues from the year 1998 onwards, the second respondent viz., Tamil Nadu Dr.M.G.R. University has not included the name of the petitioner/institution in the counseling for allotment of seats to the candidates in pharmacy courses. It is pertinent to note that the Pharmacy Council of India took a decision and informed vide communication dated 18th September 2017 that, unless the application for approval is rejected (or) a notice has been issued under Section 13(1) of Pharmacy Act for withdrawal of approval (or) approval was finally withdrawn under Section 13 (or) the institution was advised not to make admission, the admission could go on. When that is the factual position, and the petitioner/institution does not come under any of the above stated categories, the second respondent/Tamil Nadu Dr.M.G.R. University has not included the name of the petitioner/institution for counseling and hence, the petitioner was constrained to approach this Court by filing the present writ petition.

3.Heard Mr.A.Sirajudeen, learned Senior counsel appearing for the petitioner; Mr.T.M.Pappiah, learned Special Government Pleader appearing for the first respondent; Mr.D.Ravichander, learned Standing counsel appearing for the second respondent and Mr.M.T.Arunan, learned counsel appearing for the third respondent.

4.Though Mr.D.Ravichander, learned counsel appearing for the second respondent/Tamil Nadu Dr.M.G.R. University would submit that as per Section 12(1) of the Pharmacy Act and the relevant rules, approval is necessary from the Pharmacy Council to include any institution for counseling, a perusal of the communication dated 18th September 2017 would reveal that except for the four circumstances specifically stated therein, the institution can go ahead with the admission. It is seen that the said communication was addressed by Pharmacy Council of India to the Director of Medical Education as well as Registrar, Tamil

Nadu Dr.M.G.R. University, who are the first and second respondents herein. When the said communication was issued by the third respondent as early as on 18th September 2017 to the first and second respondents, it is not understandable as to how the second respondent can make arguments contrary to the communication issued by the third respondent/Pharmacy Council of India which is the original authority for granting approval.

5.A counter affidavit has also been filed by the Registrar-cum-Secretary of Pharmacy Council of India stating that a policy decision has been taken in respect of the institutions where inspections are still pending, to write to all admission making authorities that PCI has got no objection to make admission in respect of all the institutions except those institutions which come under the four circumstances stated in the communication dated 18th September 2017. Paragraph 15(b) of the counter is usefully extracted hereunder:

"15. (a)...

(b). Further 97th Central Council of the Respondent (June, 2015) noted that in some cases inspections are still pending and hence approval are not considered. The council took a policy decision that in such cases as the counseling for admission is approaching, it was decided to write to all admission making authorities that PCI has no objection to the consideration of admission to various pharmacy courses unless the Council has -

- a) rejected the application
- b) issued notice u/s 13(1) of the Pharmacy Act, 1948 for withdrawal of approval.
- c) finally withdrawn approval u/s 13.
- d) advised the institution not to make admissions.

In the light of above facts, the admission making authority may suitably organize their counseling and admission process to various pharmacy courses."

6.When it has been categorically stated in the counter affidavit filed before this Court by the Registrar-cum-Secretary of Pharmacy Council of India, the second respondent viz., Tamil Nadu Dr.M.G.R. University has got no right to deny inclusion of the name of the petitioner/institution in the counseling. After all, Tamil Nadu Dr.M.G.R. University has to carry out the orders passed by the apex bodies like Medical Council of India and Pharmacy Council of India and it has got no independent authority or discretion to take any decision contrary to the orders issued by the Pharmacy Council of India.

7.In view of the above stated position, the writ petition stands allowed and the second respondent/Tamil Nadu Dr.M.G.R.

University is directed to include the name of the petitioner institution for counseling for 100 seats for the academic year 2017-18. Consequently, connected miscellaneous petition is closed. No costs.

For reporting compliance, list the matter on 11.10.2017.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pgp

To

1. The Director,
Directorate of Medical Education,
162, Poonamallee High Road,
Kilpauk, Chennai - 10.
2. The Registrar,
Tamil Nadu Dr.M.G.R. University,
N0.69, Anna Salai, Guindy, Chennai - 31.
3. The Registrar cum Secretary,
Pharmacy Council of India,
Combined Council Building,
Tample Lane, Kotla Road,
Aiwan-E-Ghalib Marg, New Delhi - 2.

Copy To

The Section Officer,
Writ Section,
High Court, Madras.
(For posting the matter on 11.10.2017)

+1cc to Mr.A.Sheik Pareeth, Advocate, S.R.No.71252
+1cc to Mr.D.Ravichander, Standing Counsel, S.R.No.71209
+1cc to Mr.M.T.Arunan, Advocate, S.R.No.71273

W.P.No.25373 of 2017

MR(CO)
CA(05/10/2017)